

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WSG 60

Date Signed: July 23, 1990

SUBJECT: Delegations of Authority for the Public Water System Supervision Program

FROM: Raymond Enyeart, Chief (signed by Raymond Enyeart)
State Programs Management Section

TO: Holders of the PWSS Policy Directives Manual

Attached is the complete set of the Delegations of Authority currently in effect for the Public Water System Supervision Program. Also attached is a current index of these delegations.

If you have any questions about the delegations, please give me a call on 260-5551.

***Note: Please see the following website for an updated list of delegations for the PWSS program: <http://intranet.epa.gov/rmpolicy/ads/dm/index9.htm>.**

**DELEGATIONS
FOR
PUBLIC WATER SYSTEM SUPERVISION PROGRAM**

CHAPTER 9

APRIL 3, 1989

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SAFE DRINKING WATER ACT

9-1. Certification of Potable Water Supplies

1. AUTHORITY. To make certifications with respect to potable water supplies that meet the Drinking Water Standards, pursuant to the Public Health Service Act, Section 361, as amended by the Safe Drinking Water Act.
2. TO WHOM DELEGATED. Regional Administrators.
3. REDELEGATION AUTHORITY. This authority may be redelegated.
4. ADDITIONAL REFERENCES. 42 CFR Part 72.

SAFE DRINKING WATER ACT9-3. Certification of Laboratories and Responsible State Officials

1. AUTHORITY. To certify laboratories conducting analytical measurements of drinking water contaminants and to certify the officials of the State responsible for the State's certification program in accordance with Section 1412 of the Safe Drinking Water Act.
2. TO WHOM DELEGATED. Regional Administrators.
3. LIMITATIONS.
 - a. The Regional Administrators or their designees are required to be certified by the Assistant Administrator for Research and Development prior to exercising this authority.
 - b. The authority to prescribe the requirements for a national quality assurance program for certification of laboratories conducting analytical measurements of drinking water contaminants is reserved to the Administrator.
4. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.
5. ADDITIONAL REFERENCES. 40 CFR Part 142.10(b)(3-4).

SAFE DRINKING WATER ACT9-4. Determination of State Primary Enforcement Responsibility:
Public Water Systems

1. AUTHORITY. To determine whether a State has primary enforcement responsibility for public water systems in accordance with Section 1413 of the Safe Drinking Water Act (SDWA) and 40 CFR Part 142.10, and to notify a State and provide opportunity for public hearings on such determinations in accordance with Section 1413 of SDWA.
2. TO WHOM DELEGATED. Regional Administrators.
3. LIMITATIONS.
 - a. Regional Administrators are required to obtain concurrence from the Assistant Administrators for Water and Enforcement and Compliance Monitoring, and the General Counsel, or their designees, prior to making a final determination.
 - b. The Office of Water, the Office of General Counsel, and the Office of Enforcement and Compliance Monitoring may waive the concurrence limitation on a case-by-case basis. The Regional Administrators will be responsible for maintaining a record of any waiver of this limitation.
 - c. The authority to prescribe the manner in which a State may apply for a determination, the manner in which the determination is made, and the period for which the determination is effective, as set forth in Section 1413(b)(1) of SDWA, is reserved to the Administrator.
 - d. The authority to promptly notify the chief executive officer of each State under Section 1413(b)(1) of SDWA is reserved to the Administrator.
 - e. Regional Administrators shall notify the Assistant Administrator for Water of determinations and public hearings.
4. REDELEGATION AUTHORITY. This authority may not be redelegated.
5. ADDITIONAL REFERENCES. 40 CFR Parts 142.11, 142.12, 142.13.

SAFE DRINKING WATER ACT9-5. Conduct Annual Review and Determine
Compliance/Non-Compliance with the
Requirements for Primary Enforcement Responsibility1. AUTHORITY.

- a. To annually review, for each State determined to have primary enforcement responsibility, the continued compliance of the State with the requirements set forth in 40 CFR 142.10.
- b. To notify the State that it no longer meets the requirements set forth in 40 CFR 142.10, if that is the determination.
- c. To conduct public hearings on such determinations and to make the final determination after any such public hearings in accordance with Section 1413 of the Safe Drinking Water Act.

2. TO WHOM DELEGATED. Regional Administrators.3. LIMITATIONS.

- a. When the Regional Administrator's annual review reveals a change in the State's statute, regulation, or enforcement authorities, the Regional Administrator is required to obtain concurrence from the Assistant Administrators for Water and Enforcement and Compliance Monitoring, and the General Counsel, or their designees, prior to any determination of continued compliance/non-compliance with the requirements of 40 CFR 142.10.
- b. The Office of Water, the Office of General Counsel, and the Office of Enforcement and Compliance Monitoring may waive this concurrence limitation on a case-by-case basis. The Regional Administrator will be responsible for maintaining a record of any waiver of this limitation.
- c. Regional Administrators are required to notify the Office of Water prior to any determination that a State no longer meets the requirements of 40 CFR 142.10.
- d. Regional Administrators shall submit a report to the Office of Water whenever

he/she determines that a State no longer meets the requirements of 40 CFR 142.10.

SAFE DRINKING WATER ACT

9-5. Conduct Annual Review and Determine Compliance/Non-Compliance with the Requirements for Primary Enforcement Responsibility (Cont'd)

4. REDELEGATION AUTHORITY. This authority may not be redelegated.
5. ADDITIONAL REFERENCES. 40 CFR Parts 142.12 and 142.13.

SAFE DRINKING WATER ACT

9-6. Reports by States

1. AUTHORITY. To receive reports by States with primary enforcement responsibility pursuant to 40 CFR Part 142.15 in accordance with Section 1413 of the Safe Drinking Water Act.
2. TO WHOM DELEGATED. Regional Administrators.
3. LIMITATIONS. Regional Administrators are to forward a copy of their reports to the Assistant Administrator for Water.
4. REDELEGATION AUTHORITY. This authority maybe redelegated to the Division Director level.
5. ADDITIONAL REFERENCES. 40 CFR Part 142.15.

Date of Last Update: 11/06/86
SDWA Section: 1414

SAFE DRINKING WATER ACT

9-7-A. Finding and Notification of Noncompliance - Part B

1. AUTHORITY. To perform the EPA functions relating to enforcement and technical assistance pursuant to the safe Drinking Water Act, Part B, in regard to:
 - A. finding that a public water system does not comply with applicable regulations or other requirements;
 - b. notifying the primacy State, public water system, and the public of such a finding;
 - c. finding that the primacy State did not commence an appropriate enforcement action;
 - d. providing notice, where appropriate, to the primacy State, public water system, persons served by it, and the public of public hearings; and
 - e. providing, where appropriate, advice and technical assistance to the primacy State and public water system; and, following public hearings conducted pursuant to Section 1414(f) of the Safe Drinking Water Act, issuing recommendations and notifying the State, public water system, and the public of such recommendations.
2. TO WHOM DELEGATED. Regional Administrators.
3. LIMITATIONS. The delegates of the Regional Administrators must consult with Regional Counsel before exercising authorities 1.a, b and c, and before issuing recommendations under authority 1.e.
4. REDELEGATION AUTHORITY. This authority may be redelegated.
5. ADDITIONAL REFERENCES.
 - a. Section 1414 of the SDWA.
 - b. Section 1445 of the SDWA.
 - c. 40 CFR Parts 141 and 142.
 - d. Guidance on PWS Administrative Order Procedures.

Date of last Update: 07/25/84

SAFE DRINKING WATER ACT9-8. Review and Issuance of Variances

1. AUTHORITY. To issue variances in those States which do not have primary enforcement responsibility and to review State issued variances, pursuant to Section 1415 of the Safe Drinking Water Act.
2. TO WHOM DELEGATED. Regional Administrators.
3. LIMITATIONS.
 - a. The authority to define generally available technology for purposes of granting variances from any treatment technology is reserved to the Administrator.
 - b. The Regional Administrators are required to notify the Assistant Administrator for Water of all variances issued.
 - c. The Regional Administrators are required to notify the Assistant Administrator for Water prior to prescribing monitoring and other requirements pursuant to Section 1415(a)(1)(B).
 - d. Notification by the State of a granting of a variance pursuant to Section 1415(a)(1)(C) will be received by the Regional Administrator who is responsible for communicating such information to the Assistant Administrator for Water.
4. REDELEGATION AUTHORITY. This authority may not be redelegated.
5. ADDITIONAL REFERENCES. 40 CFR Parts 142.22, 142.23, 142.24, and 142.40 through 142.46.

SAFE DRINKING WATER ACT

9-9. Receipt and Issuance of Exemptions

1. AUTHORITY. To receive requests for exemptions and to issue exemptions for any public water system within a State that does not have primary enforcement responsibility and to review State issued exemptions pursuant to Section 1416 of the Safe Drinking Water Act.
2. TO WHOM DELEGATED. Regional Administrators.
3. LIMITATIONS. The Regional Administrators are required to notify the Assistant Administrator for Water of exemptions issued and schedules approved.
4. REDELEGATION AUTHORITY. This authority may not be redelegated.
5. ADDITIONAL REFERENCES. 40 CFR Parts 142.22, 142.23, 142.24, and 142.50 through 142.55.

SAFE DRINKING WATER ACT9-10. Making Available Information and Agency Facilities and
Providing Training Assistance

1. AUTHORITY. To perform the EPA functions and responsibilities relative to collecting and making available information; making available Agency facilities; and approving grants or cooperative agreements for training projects and for the development and expansion of programs of States and municipalities pursuant to Sections 1442(b)(1), 1442(b)(2), 1442(b)(3), and 1442(d)(2) of the Safe Drinking Water Act.
2. TO WHOM DELEGATED.
 - a. Assistant Administrator for Water;
 - b. Regional Administrators; and
 - c. Through the Assistant Administrator for External affairs to the Director, Office of Public Affairs.
3. LIMITATIONS.
 - a. Research activities are not included in this delegation.
 - b. The authority delegated to the Director, Office of Public Affairs is limited to awarding public awareness assistance under Sections 1442(b)(1) and (b)(3).
 - c. The authority delegated to the Regional Administrators does not include Section 1442(d)(2).
4. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.

Date of Last Update: 07/25/84
SDWA Section: 1443

SAFE DRINKING WATER ACT

9-11. To Issue Public Water System Supervision Grants

1. AUTHORITY. To approve grants to States to carry out public water system supervision programs under Section 1443(a) of the Safe Drinking Water Act.
2. TO WHOM DELEGATED. Regional Administrators.
3. REDELEGATION AUTHORITY. The authority may be redelegated to the Division Director level.
4. ADDITIONAL REFERENCES. 40 CFR Part 30; CFR Part 35, Subpart A; 40 CFR Part 142.

SAFE DRINKING WATER ACT

9-12. Inspections and Information Gathering

1. AUTHORITY.

- a. To perform the duties and responsibilities relative to reviewing records and conducting inspections under the Safe Drinking Water Act (SDWA).
- b. To obtain and execute warrants for the purpose of performing an inspection or conducting information gathering pursuant to SDWA.
- c. To carry out or require the carrying out of any other inspection and information gathering activities authorized by SDWA.
- d. To designate representatives of the Administrator to perform the functions specified in paragraphs 1.a - 1.c.

2. TO WHOM DELEGATED. The Assistant Administrator for Water, Assistant Administrator for Enforcement and Compliance Monitoring, and Regional Administrators.

3. LIMITATIONS.

- a. The Assistant Administrator for Water and the Regional Administrators must consult with the Assistant Administrator for Enforcement and Compliance Monitoring or his designee prior to obtaining warrants.
- b. The Assistant Administrator for Enforcement and Compliance Monitoring and the Assistant Administrator for Water must notify the appropriate Regional Administrator prior to exercising any of the authorities specified in paragraphs 1.a - 1.c.
- c. The Assistant Administrator for Enforcement and Compliance Monitoring may waive the consultation requirement by memorandum.

4. REDELEGATION AUTHORITY. This authority may be redelegated.

SAFE DRINKING WATER ACT

9-12. Inspections and Information Gathering (Cont'd.)

5. ADDITIONAL REFERENCES.

- a. Section 1445 of SDWA.
- b. Once the Assistant Administrator for Water issues guidance for the use of contractor inspectors, all such inspectors should only be used pursuant to that guidance.

Date of Last Update: 07/25/84

SDWA Section:

SAFE DRINKING WATER ACT

9-14. Monitoring of Consecutive Public Water Systems

1. AUTHORITY. To perform the duties and responsibilities relative to the review of and granting concurrence to any schedules set by a State in connection with modification of the monitoring requirements relating to consecutive public water systems.
2. TO WHOM DELEGATED. Regional Administrators.
3. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.
4. ADDITIONAL REFERENCES. 40 CFR Part 141.29.

SAFE DRINKING WATER ACT

9-15. Safe Drinking Water Occupational Training Assistance

1. AUTHORITY. To approve grants or cooperative agreements to any public agency, educational institution and any other organizations for training projects authorized by Sections 1442(b)(3)(A), 1442(b)(3)(B) and 1442(d)(1) of the Safe Drinking Water Act, as amended.
2. TO WHOM DELEGATED.
 - a. The Assistant Administrator for Water;
 - b. The Assistant Administrator for Research and Development; and
 - c. Regional Administrators.
3. LIMITATIONS. The authority delegated to the Assistant Administrator for Research and Development is limited to multi-disciplinary training assistance initiated and funded by ORD or training assistance initiated and funded by an office other than the primary holder of training grant authority.
4. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.

SAFE DRINKING WATER ACT

9-16-A. Civil Judicial Enforcement Actions

1. AUTHORITY. To cause civil judicial actions to be commenced or to intervene in suits commenced pursuant to the Safe Drinking Water Act (SDWA); to request the Attorney General to appear and represent the Agency in any civil enforcement actions instituted under SDWA; to determine that the Attorney General has failed or refused to appear and represent the Agency in any SDWA civil enforcement action; to appear and represent the Agency in any SDWA action where the Attorney General has refused or failed to appear and represent the Agency; to request the Attorney general to initiate an appeal and represent the Agency in such an appeal; and to initiate an appeal and represent the Agency when the Attorney General fails to do so.
2. TO WHOM DELEGATED. Assistant Administrator for Enforcement and Compliance Monitoring, General Counsel and Regional Administrators.
3. LIMITATIONS.
 - a. The Regional Administrators may exercise this authority only in regard to commencing civil actions under SDWA, intervening in civil actions commenced under SDWA, requesting the Attorney General to appear and represent the Agency in civil actions under SDWA and, where appropriate, appearing and representing the Agency in any civil actions under SDWA exclusive of appeals. The Regional Administrators may designate only Regional Counsel attorneys to represent the Agency.
 - b. The Regional Administrators may exercise this authority only in cases specified in agreements between authorized representatives of the Agency and the Department of Justice.
 - c. The Assistant Administrator for Enforcement and Compliance Monitoring must notify the Assistant Administrator for Water and the appropriate Regional Administrator when he or she refers to a case to the Department of Justice and when he or she formally initiates an appeal.
 - d. The General Counsel may only exercise this authority in regard to appeals.

SAFE DRINKING WATER ACT

9-16-A. Civil Judicial Enforcement Actions, (cont'd.)

- e. Any exercise of the appeal authority will be done jointly by the General Counsel and the Assistant Administrator for Enforcement and Compliance Monitoring.
 - f. The Regional Administrators must notify the Assistant Administrator for Water and the Assistant Administrator for Enforcement and Compliance Monitoring when they refer cases to the Department of Justice.
4. REDELEGATION AUTHORITY. This authority may be redelegated.
5. ADDITIONAL REFERENCES.
- a. Memorandum of Understanding between the Agency and the Department of Justice, June 1977; Direct referral agreement memorialized in letter of September 29, 1983, from Alvin L. Alm, Deputy Administrator, to F. Henry Habicht, Assistant Attorney General, regarding direct referrals; Sections 1414, 1423, 1431 and 1450(f) of SDWA.
 - b. For referrals of requests for emergency SDWA Temporary Restraining Orders, see chapter 9 delegation entitled "Emergency TRO's."

SAFE DRINKING WATER ACT

9-16-B. Criminal Enforcement Actions

1. AUTHORITY. To cause criminal enforcement actions under the Safe Drinking Water Act (SDWA) to be referred to the Department of Justice for assistance in field investigation, for initiation of a grand jury investigation or for prosecution under the SDWA.
2. TO WHOM DELEGATED. Assistant Administrator for Enforcement and Compliance Monitoring.
3. REDELEGATION AUTHORITY. These authorities may be redelegated to the Associate Enforcement Counsel level.
4. ADDITIONAL REFERENCES.
 - a. Sections 1423(b) and 1424(c) of SDWA.
 - b. Section 1441(e) of SDWA.
 - c. Section 1432(a) and (b) of SDWA.

Date of Last Update: 07/25/84

SDWA Section: 1450

SAFE DRINKING WATER ACT

9-16-C. Settlement or Concurrence in Settlement
Of Civil Judicial Enforcement Actions

1. AUTHORITY. To settle or exercise the Agency's concurrence in the settlement of civil judicial enforcement actions under the Safe Drinking Water Act (SDWA); to amend a consent decree pursuant to a civil judicial enforcement action under SDWA; and to request the Attorney General to amend an enforcement consent decree entered under SDWA.
2. TO WHOM DELEGATED. Assistant Administrator for Enforcement and Compliance Monitoring.
3. LIMITATIONS. The Assistant Administrator for Enforcement and Compliance Monitoring must obtain the concurrence of the Agency official who initiated the case (that is, either the Assistant Administrator for Water or designee or the appropriate Regional Administrator or designee) before exercising this authority.
4. REDELEGATION AUTHORITY. This authority may be redelegated.

SAFE DRINKING WATER ACT

9-16-D. Emergency TRO's

1. AUTHORITY. To refer requests for emergency Temporary Restraining Orders under the Safe Drinking Water Act (SDWA) to the Department of Justice and to the appropriate United States Attorney.
2. TO WHOM DELEGATED. Regional Administrators and the Associate Administrator for Legal and Enforcement Counsel or his Designee when exercising this authority.
3. LIMITATIONS.
 - a. The Regional Administrators must notify the Associate Administrator for Legal and Enforcement Counsel.
 - b. The Associate Administrator for Legal and Enforcement Counsel must notify the appropriate Regional Administrator or his designee when exercising this authority.
4. REDELEGATION AUTHORITY. This authority may not be redelegated.
5. ADDITIONAL REFERENCES.
 - a. Memorandum of Understanding between the Agency and the Department of Justice, June 1977; Sections 1431 and 1450(f) of SDWA.
 - b. For referral of other civil actions under SDWA, see Delegation 9-16-A.
 - c. For issuance of emergency administrative orders regarding public water systems, see Delegation 9-17.

(New Delegation)

SAFE DRINKING WATER ACT

9-17. Emergency Administrative Powers

1. AUTHORITY. To receive information, take action, determine the practicality of consultation, consult with States and local authorities, and issue emergency administrative orders pursuant to the Safe Drinking Water Act (SDWA).
2. TO WHOM DELEGATED. Regional Administrators and Assistant Administrator for Water.
3. LIMITATIONS.
 - a. The Assistant Administrator for Water may exercise these authorities in multi-Regional cases or cases of national significance. In addition, the Assistant Administrator for Water must consult in advance with the Assistant Administrator for Enforcement and Compliance Monitoring or his designee and must notify any affected Regional Administrators or their designees when exercising the authority to issue orders.
 - b. The Assistant Administrator for Enforcement and Compliance Monitoring and the Assistant Administrator for Water may waive their respective consultation requirements by memorandum.
4. REDELEGATION AUTHORITY. This authority may be redelegated.
5. ADDITIONAL REFERENCES. Section 1431 of SDWA.

Date of Last Update: 07/25/84

SDWA Section: 1443

SAFE DRINKING WATER ACT

9-31. Authority to Allot and Reallot Grant Funds for the Public
Water System Supervision Program

1. AUTHORITY. To allot among the States the Public Water System Supervision Program grant funds appropriated by Congress each year, as provided for in Section 1443(a)(4) of the Safe Drinking Water Act (SDWA); and to reallot any unobligated funds to eligible States.
2. TO WHOM DELEGATED. The Assistant Administrator for Water.
3. REDELEGATION AUTHORITY. This authority may be redelegated to the Director, Office of Drinking Water.
4. ADDITIONAL REFERENCES. SDWA, Section 1413; 40 CFR Part 30; 40 CFR 35, Subpart A; and 40 CFR Part 142.

SAFE DRINKING WATER ACT9-32. Administrative Enforcement Authority Under Part B: Proposed and Final Orders and Agency Representation in Hearings

1. AUTHORITY. Pursuant to the Safe Drinking Water Act (SDWA), Part B: to issue proposed orders requiring compliance; to provide the primacy State an opportunity to confer; to conduct and represent the Agency in a public hearing; to amend or withdraw proposed orders requiring compliance; and to issue final orders requiring compliance.
2. TO WHOM DELEGATED. Regional Administrators and the Assistant Administrator for Water.
3. LIMITATIONS.
 - a. The Assistant Administrator for Water may exercise the above authorities in multi-regional cases and in cases of national significance.
 - b. The Assistant Administrator for Water must consult with the Office of Enforcement and Compliance Monitoring before exercising any of the above authorities.
 - c. The Regional Administrators may exercise the above authorities only for those cases initiated by the Regions.
 - d. the delegates of the Regional Administrators must consult with Regional Counsel before exercising the above authorities.
4. REDELEGATION AUTHORITY. These authorities may be redelegated.
5. ADDITIONAL REFERENCES.
 - a. See the Chapter 9 delegations entitled:
 - (1) "Civil Judicial Enforcement Actions."
 - (2) "Emergency Administrative Powers."
 - b. Section 1414(a)(1)(A) and (B), (f), (g)(1) and (g)(2) of the SDWA.
 - c. Section 1445 of the SDWA.

SAFE DRINKING WATER ACT

- 9-32. Administrative Enforcement Authority Under Part B: Proposed and Final Orders and Agency Representation in Hearings (Cont'd)
- d. Guidance on Headquarters involvement in the Issuances by Regions of the first Proposed and Final Administrative Orders.
 - e. Guidance on PWS Administrative Order Procedures.

SAFE DRINKING WATER ACT9-33-A. Administrative Penalty Under Part B: Penalty Assessments, Issuing Complaints, and Negotiating and Signing Consent Agreements

1. AUTHORITY. Pursuant to the Safe Drinking Water Act (SDWA): to assess a penalty against any person in violation of any administrative order issued under Part B of the SDWA; to issue, amend or withdraw complaints; and to negotiate and sign consent agreements between the Agency and respondents.
2. TO WHOM DELEGATED. Regional Administrators and the Assistant Administrator for Water.
3. LIMITATIONS.
 - a. These authorities may only be exercised prior to the alleged violator's filing an answer or failure to file a timely answer to a complaint.
 - b. The Assistant Administrator for Water may exercise the above authorities in multi-regional cases and in cases of national significance.
 - c. The Assistant Administrator for Water must consult with the Assistant Administrator for Enforcement and Compliance Monitoring or designee before exercising any of the above authorities.
 - d. The Regional Administrators may exercise the above authorities only for those cases initiated by the Regions.
 - e. The delegates of the Regional Administrators must consult with Regional Counsel before exercising the above authorities.
 - f. The Agency official authorized to sign the complaint should sign the consent agreement.
4. REDELEGATION AUTHORITY. These authorities may be redelegated to the Division Director level. The authority to negotiate settlements may be redelegated further.
5. ADDITIONAL REFERENCES.
 - a. Section 1414(g)(1) and (3) of the SDWA.
 - b. Section 1445 of the SDWA.

SAFE DRINKING WATER ACT

- 9-33-A. Administrative Penalty Under Part B: Penalty Assessments, Issuing Complaints, and Negotiating and Signing Consent Agreements, (cont'd.)
- c. 40 CFR Part 22.
 - d. Guidance on Procedures for Assessing Civil Penalties in an Administrative Order Pursuant to Section 1414(g)(3)(B) of the SDWA.
 - e. Guidance on Headquarters Involvement in the Issuances by Regions of the First Proposed and Final Administrative Orders.
 - f. Chapter 9 Delegation entitled "Administrative Penalty Under Part B: Agency Representation in the Hearings, Negotiating and Signing of Consent Agreements and Appeals" for authorities once the alleged violator files or fails to file an answer to the complaint.

SAFE DRINKING WATER ACT9-33-B. Administrative Penalty Under Part B: Agency Representation in the Hearings, Negotiating and Signing of Consent Agreements and Appeals1. AUTHORITY.

- a. To represent EPA in civil penalty adjudications conducted under the penalty section of Part B of the Safe Drinking Water Act (SDWA) and 5 U.S.C. Section 554;
- b. To negotiate consent agreements between the Agency and respondents resulting from such enforcement actions;
- c. To sign consent agreements;
- d. To initiate appeals from administrative determinations; and
- e. To represent the Agency in such appeals.

2. TO WHOM DELEGATED. Regional Administrators and the Assistant Administrator for Enforcement and Compliance Monitoring.3. LIMITATIONS.

- a. These authorities may only be exercised after the alleged violator either files an answer or fails to file a timely answer.
- b. The Assistant Administrator for Enforcement and Compliance Monitoring may exercise the above authorities for those cases which were initiated by Headquarters.
- c. The Regional Administrators may exercise the above authorities only for those cases which were initiated by the Regions.
- d. The Assistant Administrator for Enforcement and Compliance Monitoring must notify the appropriate Regional Administrator or designee before exercising the above authorities.

SAFE DRINKING WATER ACT9-33-B. Administrative Penalty Under Part B: Agency Representation in the Hearings, Negotiating and Signing of Consent Agreements and Appeals. (cont'd.)

- e. The Assistant Administrator for Enforcement and Compliance Monitoring must notify the Assistant Administrator for Water or designee before initiating an appeal.
- f. The Regional Administrators must obtain concurrence from the Assistant Administrator for Enforcement and Compliance Monitoring or designee before initiating an appeal.
- g. The Regional Administrators or delegates shall consult with the Assistant Administrator for Enforcement and Compliance Monitoring or designee any time they do not recommend an appeal of an adverse decision.

4. REDELEGATION AUTHORITY. This authority may be redelegated.5. ADDITIONAL REFERENCES.

- a. Section 1414(g)(1) and (3) of the SDWA.
- b. Section 1445 of the SDWA.
- c. Guidance on Headquarters Involvement in the Issuances by Regions of the first Proposed and Final Administrative Orders.
- d. Guidance on Procedures for Assessing Civil Penalties in an Administrative Order Pursuant to Section 1414(g)(3)(B) of the SDWA.
- e. 40 CFR Part 22.

SAFE DRINKING WATER ACT9-33-C. Appeals of Part B Administrative Penalty Orders

1. AUTHORITY. To serve as final deciding official in all adjudicatory appeals proceedings under Part B of the Safe Drinking Water Act.
2. TO WHOM DELEGATED. The Chief Judicial Officer.
3. LIMITATIONS. The Chief Judicial Officer and delegates may not be employed by the Office of Enforcement and Compliance Monitoring or by any program office directly associated with the type of violation at issue in the involved proceeding.
4. REDELEGATION OF AUTHORITY. This authority may be redelegated in individual proceedings to other Judicial Officers; provided, however, that decisions rendered pursuant to redelegated authority must be with the written concurrence of the Chief Judicial Officer. Nothing in this delegation shall preclude the Chief Judicial Officer from referring any motion or other matter in any proceeding to the Administrator when the Chief Judicial Officer determines referral to be appropriate.
5. ADDITIONAL REFERENCES.
 - a. 40 CFR Part 22.
 - b. Guidance on Headquarters Involvement in the First Issuances of Proposed and Final Administrative Orders for Compliance.
 - c. See the Chapter 1 Delegation entitled "Adjudicatory Proceedings."
 - d. Section 1414(g)(3)(B) of the SDWA.
 - e. Guidance on Procedures for Assessing Civil Penalties in an Administrative Order Pursuant to Section 1414(g)(3)(B) of the SDWA.

SAFE DRINKING WATER ACT

9-36. Determining that a State is not Enforcing the Prohibition on Use of Lead Pipes, Solder and Flux; and Withholding of Federal Funds

1. AUTHORITY. To determine that a State is not enforcing the requirements in the prohibition on use of lead pipes, solder, and flux; and to withhold Federal funds available to any State which fails to enforce the prohibition, and public notice requirements.
2. TO WHOM DELEGATED. Regional Administrators.
3. REDELEGATION AUTHORITY. This authority may not be redelegated.
4. ADDITIONAL REFERENCES. Section 1417 of the SDWA.

Date of Last Update: 04/03/89

SDWA Section: 1451

SAFE DRINKING WATER ACT9-38. Treatment of Indian Tribes as States: Public
Water Systems and Underground Injection Control

1. AUTHORITY. To determine whether an Indian Tribe shall be treated as a State for purposes of the Public Water System and Underground Injection Control Programs in accordance with Section 1451 of the Safe Drinking Water Act. A separate determination must be made for the Public Water system and Underground Injection Control Programs.
2. TO WHOM DELEGATED. Regional Administrators.
3. LIMITATIONS.
 - a. Regional Administrators are required to obtain concurrence from the Assistant Administrators for Water and Enforcement and Compliance Monitoring, and the General Counsel, or their designees, prior to making the first final determination for treatment of a Tribe as a State for each program in the Region.
 - b. The Office of Water and the Office of Enforcement and Compliance Monitoring may waive the concurrence limitation on a case-by-case basis. The Regional Administrators will be responsible for maintaining a record of any waiver of this limitation and sending a copy of any waiver to the Management and Organization Division (PM 213).
 - c. Any subsequent final determinations in that program may be made by the Regional Administrator with the concurrence of the Regional Council.
4. REDELEGATION OF AUTHORITY. The authority to approve the initial determination may not be redelegated. The authority to approve any amendments to the initial determination or to approve any subsequent determinations may be redelegated to the Division Director level.
5. ADDITIONAL REFERENCES. 40 CFR Parts 142.72, 142.76, 142.78, 145.52, 145.56, and 146.58.